

Appl. No. 10/056,485
Amendment filed February 18, 2004
Office Action dated November 18, 2003

Docket No.: 0445-0317P
Group Art 3761
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REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1, 3-4, and 6-11 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

Objection to the Previous Amendment

The Examiner states that the previous amendments to claims 3 and 9 do not show the original text with all of the additions underlined and deletions struck through. Applicants have reviewed these two claims and agree that the word "to" was missing from claim 3. However, Applicants see no errors in claim 9. In the present amendment, the missing word in claim 3 has been added and underlined as a new word since it did not appear in the previous version. If the Examiner is aware of other missing words, she is requested to specify the errors.

Drawings

The Examiner approved the drawings submitted on August 18, 2003. The Examiner suggests that Figure 9 would be better if labeled as Figures 9A and 9B. By way of the present amendment,

Applicants are submitting Figure 9 with the new labels. The description of Figure 9 has been changed on pages 3, 13, and 15 to agree with this new labeling.

Objection to the Disclosure

The Examiner objected to the Disclosure as not showing an upright portion which extends between the absorbing layer and the elastically extensible portion. By way of the present amendment, claims 1 and 4 have been amended to remove this alternative language. Accordingly, the objection is believed to be overcome.

Claim Objections

The Examiner objected to a number of claim informalities. By way of the present amendment, these have been corrected as suggested by the Examiner. However, in the case of claim 1, lines 7, 8 and last line, and similar locations in claim 4, Applicants have used the term "corresponding" instead. Accordingly, this objection is believed to be overcome.

Rejection Under 35 USC §112, Second Paragraph

Claims 6 and 7 stand rejected under 35 USC §112, second paragraph as being indefinite. This rejection is respectfully traversed.

The Examiner questioned whether the valleys are the same as the compressed portions in regard to claims 4 and 6. By way of the present amendment, claim 6 has been amended to clarify the situation. Accordingly, this rejection is believed to be overcome.

Rejection Under 35 USC §102

Claims 1, 3, 4, and 6-11 stand rejected under 35 USC §102 as being anticipated by Mizutani et al. (USP 6,569,140). This rejection is respectfully traversed.

The Examiner points out that this reference shows an oblong absorbent article having an absorbing layer, a leak proof layer and standing gathers 5. The portion 16 is made of a sheet 20 and at least one elastic member 7. In regard to claim 4, the Examiner states that the reference shows two fiber aggregate layers 20a and 20b. Applicants submit that the claims are neither anticipated by nor obvious over this reference.

In regard to claim 1, the sheet has now been described as being planar when it is fixed to the sheet. This is not seen in the Mizutani et al. reference where the corresponding structure is heat-pressed to have a wavy form as shown in Figure 7. Accordingly, this feature is not seen in the reference. Further, in the present invention, the sheet is planar before the elastic

member is fixed to the sheet and forms ridges by contracting due to the elastic member. In the reference, the ridges are formed by compression as illustrated in Fig. 7. Thus, the elastic member of the reference is not intended to form ridges, but to upstand gathers or maintain the shape of the ridges formed by the compression. Accordingly, Applicants submit that claim 1 is not anticipated by this reference.

Claim 3 depends from claim 1 and as such is also considered to be allowable. Claim 3 describes each upright portion as being connected to a middle portion in the width direction of the elastically extensible portion. This is not seen in the reference where at best, the closest part to an upright portion is connected to one end of the width of the elastically extensible portion. Accordingly, claim 3 is additionally allowable.

Claim 4 is similar to claim 1 but describes the second embodiment which utilizes two fiber aggregate layers rather than a sheet. The Examiner states that the reference shows two such aggregate layers 20A and 20B. However, Applicants disagree with this understanding of the reference. The elements 20A and 20B identified by the Examiner are the ends of the folded sheet 20 as seen in Fig. 3 and the corresponding description in column 6, lines

43-46. Thus, the ends of the sheet are not protruding between 7b and 7c and between 7c and 7d as indicated by the Examiner. In addition, the claim describes both of the aggregate layers as protruding toward the wearer's skin when worn. This is clearly not seen in layers 20A, 20B since they do not protrude toward the wearer at all, but are instead affixed to the outer edge of the surface sheet. These parts are part of the same layer and are not two separate fiber aggregate layers as is presently claimed. Further, claim 4 describes the ridges as having a lower density than the valleys. In the reference, the ridge tops and the valley bottoms are both compressed and hence more dense than the sloped portions in between. Accordingly, Applicants submit that the arrangement of claim 4 is not seen in the reference.

Claims 6-9 and 11 depend from claim 4 and as such are also considered to be allowable. In addition, these references also teach additional features of the invention. In particular, claim 9 also describes the connection of the upright portion in the middle of the elastically extensible portions in the same fashion as claim 3. Accordingly, these claims are considered to be additionally allowable.

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Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner of Patents and Trademarks, Washington,

D.C. 20231 on: 2-18-04 (Date of Deposit)

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0445-0317P 27804

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Respectfully submitted,

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